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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

San Francisco Division

11 || THERESA AGBOWO, et al.,

No. C 14-01295 LB

12 || Plaintiffs,

13 v.

14 | NATIONSTAR MORTGAGE LLC,

**ORDER (1) STRIKING PLAINTIFFS'
SECOND AMENDED COMPLAINT
AND (2) EXTENDING DEADLINE TO
SEEK LEAVE TO ADD NEW PARTIES
OR AMEND THE PLEADINGS**

15 || Defendant.

17 Plaintiffs filed their original complaint on February 4, 2014, and they filed their first amended
18 complaint on May 27, 2014. ECF Nos. 1, 16. Following the Case Management Conference held on
19 September 25, 2014, the court issued a case management and pretrial order. ECF No. 43.¹ The
20 order set case management deadlines, including a deadline “to seek leave to add new parties or
21 amend the pleadings.” *Id.* at 2 (emphasis added). That deadline was Monday, October 27, 2014. *Id.*
22 On October 26, 2014, rather than seeking leave to amend the pleadings, Plaintiffs filed a second
23 amended complaint. ECF No. 45.

24 "A party may amend its pleading once as a matter of course within: (A) 21 days after serving it,
25 or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a
26 responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is

¹ Citations are to the Electronic Case File (“ECF”) with pin cites to the electronically generated page numbers at the top of the document.

United States District Court

For the Northern District of California

1 earlier.” Fed. R. Civ. P. 15(a)(1). “In all other cases, a party may amend its pleading only with the
2 opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2). Plaintiffs
3 improperly filed their second amended complaint because they failed to obtain written consent from
4 the opposing party or leave of court, and they failed to do so by the October 27, 2014 deadline.

5 A court may strike an insufficient defense or any redundant, immaterial, impertinent, or
6 scandalous matter from a pleading on its own or upon motion by a party. Fed. R. Civ. P. 12(f)(1);
7 *see* Schwarzer, Tashima & Wagstaffe, Cal. Prac. Guide: Fed. Civ. Proc. before Trial § 9:401 (The
8 Rutter Group 2014) (citing *Garrett v. Selby, Connor, Maddux & Janer*, 425 F.3d 836, 841 (10th Cir.
9 2005); *United States v. Dawe*, 504 F. Supp. 2d 924, 930 (E.D. Cal. 2007)). Under the
10 circumstances, the undersigned strikes Plaintiffs’ second amended complaint, ECF No. 45, because
11 Plaintiffs’ failure to comply with Federal Rule of Civil Procedure 15(a)(2) renders it impertinent. If
12 Plaintiffs wish to file a second amended complaint, they must obtain written consent from the
13 opposing party or seek leave of this court by filing a motion noticed under Civil Local Rule 7 by
14 **Tuesday, November 11, 2014.**

15 **IT IS SO ORDERED.**

16 Dated: November 4, 2014



17 LAUREL BEELER
18 United States Magistrate Judge
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